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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,122	03/23/2004	Satorou Kudou	107391-00005	2129

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ARENT FOX KINTNER PLOTKIN & KAHN, PLLC  
Suite 600  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5339

EXAMINER
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POLICOFF, STEVEN B

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

### Period for Reply

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/23/04, 7/08/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 1,14 and 18 are objected to because of the following informalities: See claim 1, page 17, line 5 – It seems “at least holding band” should read, “at least one holding band”. See claim 18, page 22, line 7 – It seems that “The method according to claim 17” should read, “The packing box according to claim 17”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites the limitation "said packing object" in line 27. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6,9,10 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al., (US Pat 6,158,589).

With respect to claims 1,2,3,6 and 14, Smith discloses a packing box comprising: a rectangular parallelepiped shape box main body (see Smith Abstract last sentence); and an inner plate (Fig 1 ref 1) which comprises: a rectangular main plate (Fig 2 ref 2) on which a packing object is fixed (Abstract 2<sup>nd</sup> to last sentence) by at least one holding band (5,6) in a horizontal direction, a set of first plates (Fig 2 ref 3,4) bent upwardly from each of first ends of said main plate opposing to each other; and a set of second plates (Fig 3 ref 8,10) bent downwardly from each of second ends of said main plate opposing to each other, wherein said packing object is capable of being fixed at a center of said main plate such that said packing object is not contact with inner walls of said box main body.

With respect to claims 4,5,15, and 16, Smith discloses that said first plates are separated by a first gap (Fig 2 see distance between main body ends at each of the 1<sup>st</sup> set plates), said second plates are separated by a second gap (Fig 2 see distance between main body sides at each of the 2<sup>nd</sup> set plates) and that the packing object is wrapped by a first holding band (6) passing through said first gaps between the first plates of each of the sets for said first ends, and said packing object is wrapped by a second holding band (5) passing through said second gaps between the second plates of each of the sets for said second ends.

With respect to claims 9,10 and 13, Smith inherently discloses the method steps of fixing said packing object at the center of an inner plate's main body such that said packing object is not contact with inner walls of said box main body and accommodating said inner plate in said box main body to keep said inner plate in a horizontal direction.

Smith also inherently discloses wrapping said packing object by a first holding band passing through said first gaps between the first plates of each of the sets for said first ends; and wrapping said packing object by a second holding band passing through said second gaps between the second plates of each of the sets for said second ends (Fig 2 generally).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7,8,11,12,17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., (US Pat 6,158,589) as applied to claims 1,2,6,9 and 14 above and further in view of Harding et al., (US Pat 5,975,307).

With respect to claims 7,8,17 and 18, Smith does not disclose that a summation of an extending length of said first plate and an extending length of said second plate is substantially equal to an inner height of said box main body and that said extending

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length of said first plate is substantially equal to said extending length of said second plate such that said main plate is held at a middle position in said box main body.

However, Harding does disclose a summation of an extending length of said first plate and an extending length of said second plate is substantially equal to an inner height of said box main body (Harding Fig 2, ref D1,D2; see also column 3, lines 3-5) and that said extending length of said first plate is substantially equal to said extending length of said second plate such that said main plate is held at a middle position in said box main body (column 3, lines 7-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first and second plate lengths substantially equal, as taught by Harding, for the purpose of better protecting the packing object from shock during transport or storage (column 3, lines 10-13).

With respect to claims 11 and 12, Smith, as modified above, provides that it would be obvious to one having ordinary skill in the art at the time the invention was made to modify the method steps of claim 9 to include the limitations that a summation of an extending length of said first plate and an extending length of said second plate is substantially equal to an inner height of said box main body and that said extending length of said first plate is substantially equal to said extending length of said second plate such that said main plate is held at a middle position in said box main body (Harding Fig 2, ref D1,D2; see also column 3, lines 3-5 and 7-10 ).

### ***Conclusion***

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 attached below.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*SBP* 6/30/06  
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Mickey Yu  
Supervisory Patent Examiner  
Group 3700